

What's a Utility to Do with Abandoned Funds?



The money is just sitting there. Efforts to reach the owners, of forgotten deposits and credits on accounts left behind, have not been successful. Maybe years have passed with these funds still on the books. This scenario raises the question – when can the abandoned credit and funds be considered the property of the utility?

The short answer is that the unclaimed money never becomes the property of the utility. Further, a utility violates state law by holding funds for years.

Kansas, like other states, has adopted a series of statutes involving unclaimed property, including money. The statutes, KSA 58-3934, et seq., describe the process for dealing with abandoned property.

If a deposit or refund owed to a customer of the utility has been unclaimed for one year, it is subject to the act. (The statute also applies to an employee's wages which are unclaimed for a year.) The event that initially causes the utility to become obligated to pay the money to its lawful owner is what triggers the beginning of the one year dormant period. Unclaimed property and funds are considered abandoned if the

rightful owner has had no communication with the utility whatsoever about the property for a year or more.

Once the funds held by the utility are abandoned, the funds become the property of the state of Kansas, if the owner's last known address is in Kansas. The state treasurer is responsible for holding the abandoned property until the rightful owner comes forward.

On July 1, the utility should identify any abandoned funds it has been holding for a year. The utility is required to file a report describing the abandoned property, the date it became due and the owner. The report is due to the state treasurer by November 1.

Between 60 and 120 days before the report is filed with the state treasurer, the utility is required to send a notice to

the owner at the owner's last known address. The notice should include a description of the money, the amount due, and state that the property is subject to the Disposition of Unclaimed Property Act.

If the owner still does not claim the money after receiving the notice, the report must be filed with the state treasurer. At the same time, the funds must be delivered to the state

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treasurer. Once the report and funds are delivered to the state treasurer, the utility no longer has any liability to the owner for the property. Normally the report and the funds are due by November 1, but there may be extensions for certain reasons. Forms and detailed information about how to comply is available on the state treasurer's Web site.

The state treasurer compiles a list of abandoned property and manages the process in which owners can claim their property. The list is on the state treasurer's Web site. (See this link: <https://www.kansasstatetreasurer.com/prodweb/main/index.php>). Individuals and companies can search online for their abandoned property and file a claim for its return with the treasurer's office.

There are, of course, consequences for not reporting and delivering the funds to the state treasurer. The state treasurer can have an independent audit of the utility and, if abandoned money is identified, the utility could be responsible for the costs and expenses of the audit. Additionally, there may be a fine for willfully failing to file the required report and holding the funds. The fine is \$100 a day, with a maximum of \$5,000. Further, there is a fine of \$5 for failing to send notice to the owner. Finally, there may be a civil penalty of 25 percent of the value of the property for failing to deliver it to the state treasurer.

A utility holding money owed to others should take steps to deliver it to its rightful owner.

Fortunately, the Kansas statutes give the state treasurer some discretion in waiving or reducing the penalties under appropriate circumstances. Understanding that holders mistakenly hold funds longer than they should, the state treasurer has developed a Voluntary Disclosure Program for businesses that failed to comply with state law.

A utility holding money owed to others should take steps to deliver it to its rightful owner. The final steps are detailed in the Kansas statutes and ultimately involve handing the funds over to the state treasurer.

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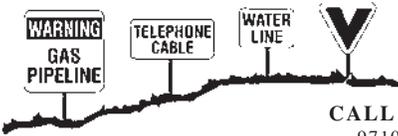
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